IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI.REVISION APPLICATION NO. 158 OF 1997

The State of Maharashtra ..Applicant.

V/s.

M/s. Marvel (India) Products,Bombay .. Respondents.

Shri K.V. Saste, APP for the Applicant -State.

CORAM : A.M.KHANWILKAR, J.
DATED : MARCH 01, 2005

PC :-

. Heard learned APP. None appears for respondents though served. Affidavit of service has been filed by the applicant sworn by Mr. S.M. Shinde, Inspector of Legal Metrology, dated 18th February, 2005 which states that the respondents have been personally served by him. Accordingly, the matter will have to proceed ex-parte against the respondents.

2. This revision takes exception to the order passed by the Additional Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai dated September 27, 1996 in case No. 210/S/1996, discharging the

respondents accused by dismissing the complaint preferred by the applicant on the ground that the process fee has not been paid within three months. In other words, the impugned order is passed in exercise of powers under section 203 of the Cri. Procedure Code. The reason which weighed with the court below in dismissing the complaint for want of paying process fee by the complainant, applicant herein, clearly overlooks the statutory provisions extricating the filing of process fee for such complaint in terms of section 20(1-A) (xii) of the Bombay Court Fees Act, 1952.

3. In the circumstances, the order in question cannot be sustained in law. Accordingly, the same is set aside. As a consequence, the complaint is restored to its original number to the file of the concerned Magistrate, who, in turn, shall proceed with the same on its own merits in accordance with law. As the case pertains to year 1996, the concerned Magistrate shall ensure that the complaint is disposed of as expeditiously as possible preferably within six months from the receipt of the writ of this court.

4. Revision succeeds in the above terms.

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